

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE**

CRIMINAL APPLICATION NO.4498 OF 2006

|                      |                 |
|----------------------|-----------------|
| Mukesh Gupta         | ... Applicant.  |
| V/s.                 |                 |
| State of Maharashtra | ... Respondent. |

Shri Biju S. Joshi i/b Shri Amit Jambutkar for the applicant.

Shri S.S. Pednekar, APP for the respondent.

**CORAM: S.C.DHARMADHIKARI, J.**

**DATED: 21.12.2006.**

**P.C.:**

. The applicant was arrested in connection with C.R. No.125 of 2006 registered at Vikhroli Police Station, for offence punishable under section 376 and 506 of the Indian Penal Code. He was arrested on 25th July 2006.

2. Heard Shri Joshi appearing for the applicant and Shri Pednekar, APP for the State. Perused the application and annextures thereto, including the order passed by the learned Additional Sessions Judge, Mumbai, 13.6.2006. From the perusal of the statement of the prosecutrix in the F.I.R. it is apparent that the same is recorded 13 days after the alleged incident. The prosecutrix is a married lady. The prosecutrix has not disclosed the incident which occurred on 13th July 2006 to her husband and she

waited till 24th July 2006/25th July 2006. That apart, perusal of the said statement makes the version of the prosecutrix doubtful and suspicious. The learned Additional Sessions Judge was inclined to enlarge the applicant on bail, but noticing that the applicant resides in the neighbourhood and the vicinity of the prosecutrix, so also he being a permanent resident of Uttar Pradesh, rejected the application.

3. Shri Joshi has now tendered an affidavit of the uncle of the applicant, who is residing at Vikhroli, Mumbai. Uncle has stated that upon release, the applicant would reside at Kalyan and undertakes not to enter the area where prosecutrix is residing. The prosecutrix resides at Vikhroli, Mumbai.

4. In the light of the undertaking so also with appropriate conditions application of the applicant can be granted. Hence, the following order.

(i). The applicant be enlarged on bail in the sum of Rs. 10,000/- with one or two local sureties in the like amount.

(ii). The bail is granted subject to condition

that he shall not enter the area/limits of Vikhroli Police Station.

(iii). The applicant during the pendency of the trial will reside at Kalyan at the address mentioned in the affidavit of the applicant dated 21.12.2006. The applicant shall not leave Kalyan city without prior permission of the trial Court.

(iv). Applicant shall report to Kalyan Police Station once in a week during the pendency of the trial.

(v). The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(vi). Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in the above terms.

(viii). Parties to act on an authenticated copy

of this order.

(S.C.DHARMADHIKARI, J.)